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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/943,420	08/30/2001	Jason P. Chinn	P-097-R	7837
21186	7590	10/22/2003	EXAMINER	
SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A. P.O. BOX 2938 MINNEAPOLIS, MN 55402			RAO, DEEPAK R	
		ART UNIT	PAPER NUMBER	
		1624	14	
DATE MAILED: 10/22/2003				

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No. <b>09/943,420</b>	Applicant(s) <b>Chinn et al.</b>	
Examiner <b>Deepak Rao</b>	Art Unit <b>1624</b>	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

1)  Responsive to communication(s) filed on Aug 11, 2003

2a)  This action is FINAL.      2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

### Disposition of Claims

4)  Claim(s) 42, 43, 46-49, 64-69, and 71-74 /are pending in the application.

4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 42, 43, 65, 68, and 69 /are rejected.

7)  Claim(s) 46-49, 64, 66, 67, and 71-74 /are objected to.

8)  Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are a)  accepted or b)  objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)  The proposed drawing correction filed on \_\_\_\_\_ is: a)  approved b)  disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)  The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

13)  Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)  All b)  Some\* c)  None of:

1.  Certified copies of the priority documents have been received.
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\*See the attached detailed Office action for a list of the certified copies not received.

14)  Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

a)  The translation of the foreign language provisional application has been received.

15)  Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____	6) <input type="checkbox"/> Other: _____

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## **DETAILED ACTION**

Claims 42-43, 46-49, 64-69 and 71-74 are pending in this application.

The rejections of the previous office action are rendered moot by the amendments. As per the election of species guidelines of MPEP § 803.02, the search was expanded to compounds wherein Q is -CR<sup>5</sup>R<sup>6</sup> wherein R<sup>5</sup> and R<sup>6</sup> are alkyl and y is 1 (i.e., pyrrolidine ring) and art was found. All other values of Q and y are hereby withdrawn from further consideration by the examiner pursuant to 37 CFR 1.142(b), as being drawn to non elected inventions.

### *Claim Objections*

Claim 72 is objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim can not depend from any other multiple dependent claim. See MPEP § 608.01(n). Accordingly, the claim has not been further treated on the merits. Claim 72 refers to claim 68 which is also a multiple dependent claim.

### *Claim Rejections - 35 U.S.C. § 102*

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 42, 43, 65, 68 and 69 are rejected under 35 U.S.C. 102(b) as being anticipated by Renner et al., CAPLUS Abstract 89:110472 (1978). The instant claims read on reference disclosed compound, see the compound having RN 67354-88-5.

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***Allowable Subject Matter***

Claims 46-49, 64, 66-67, 71 and 73-74 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Deepak Rao whose telephone number is (703) 305-1879. The examiner can normally be reached on Tuesday-Friday from 6:30am to 5:00pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dr. Mukund Shah, can be reached on (703) 308-4716. The fax phone number for the organization where this application or proceeding is assigned is (703) 308-4556.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1235.

  
Deepak Rao  
Primary Examiner  
Art Unit 1624

October 20, 2003